



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2014 REGULAR SESSION

---

HOUSE BILL NO. 138

---

---

TUESDAY, FEBRUARY 4, 2014

---

The following bill was reported to the Senate from the House and ordered to be printed.

RECEIVED AND FILED  
DATE April 10, 2014  
1:31pm  
ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. S. Allen

1 AN ACT relating to public employee health insurance.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 18A.2254 is amended to read as follows:

4 (1) Based on the recommendation of the secretary of the Personnel Cabinet, the  
5 secretary of the Finance and Administration Cabinet, in lieu of contracting with one  
6 (1) or more insurers licensed to do business in this state, shall procure, in  
7 compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the  
8 Government Contract Review Committee pursuant to KRS 45A.705, a contract  
9 with one (1) or more third-party administrators licensed to do business in the  
10 Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan  
11 offered to the Public Employee Health Insurance Program for public employees.  
12 The requirements for the self-insured plan shall be as follows:

- 13 (a) 1. The secretary of the Personnel Cabinet shall incorporate by reference in  
14 an administrative regulation, pursuant to KRS 13A.2251, the plan year  
15 handbook distributed by the Department of Employee Insurance in the  
16 Personnel Cabinet to public employees covered under the self-insured  
17 plan. The plan year handbook shall contain, at a minimum, the  
18 premiums, employee contributions, employer contributions, and a  
19 summary of benefits, copays, coinsurance, and deductibles for each plan  
20 provided to public employees covered under the self-insured plan;
- 21 2. Prior to filing an administrative regulation for the self-insured plan with  
22 the Legislative Research Commission, the secretary of the Personnel  
23 Cabinet shall submit the administrative regulation to the secretary of the  
24 Cabinet for Health and Family Services for review. Notwithstanding any  
25 other provision of KRS Chapter 18A to the contrary, the administrative  
26 regulation shall not be subject to review by the Personnel Board prior to  
27 filing the administrative regulation with the Legislative Research

1 Commission; and

2 3. The secretary of the Personnel Cabinet shall file the administrative  
3 regulation for the self-insured plan with the Legislative Research  
4 Commission on or before September 15 of the year before each new  
5 plan year begins;

6 (b) The self-insured plan offered by the program shall cover hospice care at least  
7 equal to the Medicare benefit;

8 (c) The Personnel Cabinet shall provide written notice of any formulary change to  
9 employees covered under the self-insured plan who are directly impacted by  
10 the formulary change and to the Kentucky Group Health Insurance Board  
11 fifteen (15) days before implementation of any formulary change. If, after  
12 consulting with his or her physician, the employee still disagrees with the  
13 formulary change, the employee shall have the right to appeal the change. The  
14 employee shall have sixty (60) days from the date of the notice of the  
15 formulary change to file an appeal with the Personnel Cabinet. The cabinet  
16 shall render a decision within thirty (30) days from the receipt of the request  
17 for an appeal. After a final decision is rendered by the Personnel Cabinet, the  
18 employee shall have a right to file an appeal pursuant to the utilization review  
19 statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the  
20 employee shall have the right to continue to take any drug prescribed by his or  
21 her physician that is the subject of the formulary changes;

22 (d) The Personnel Cabinet shall develop the necessary capabilities to ensure that  
23 an independent review of each formulary change is conducted and includes  
24 but is not limited to an evaluation of the fiscal impact and therapeutic benefit  
25 of the formulary change. The independent review shall be conducted by  
26 knowledgeable medical professionals and the results of the independent  
27 review shall be posted on the Web sites of the Personnel Cabinet and the

1 Cabinet for Health and Family Services and made available to the public upon  
 2 request within thirty (30) days of the notice from the Personnel Cabinet  
 3 required in paragraph (c) of this subsection;

4 (e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the  
 5 plan shall comply with and have an exceptions policy in accordance with KRS  
 6 304.17A-535;

7 (f) Premiums for all plans offered by the Public Employee Health Insurance  
 8 Program to employees shall be based on the experience of the entire group;

9 (g) The plan year for the Public Employee Health Insurance Program, whether for  
 10 fully insured or self-insured benefits, shall be on a calendar year basis.

11 (2) In addition to any fully insured health benefit plans or self-insured plans, beginning  
 12 January 1, 2015~~[2007]~~, the Personnel Cabinet shall offer a health reimbursement  
 13 account or health flexible spending account for public employees insured under  
 14 the Public Employee Health Insurance Program.

15 (a) If a public employee waives coverage provided by his or her employer under  
 16 the Public Employee Health Insurance Program, the employer shall forward a  
 17 monthly amount to be determined by the secretary of the Personnel Cabinet,  
 18 ~~[but not less than one hundred seventy-five dollars (\$175),]~~ for that employee  
 19 as an employer contribution to the health reimbursement account or health  
 20 flexible spending account, but not less than one hundred seventy-five  
 21 dollars (\$175) per month, subject to any conditions or limitations imposed  
 22 by the secretary to comply with applicable federal law.

23 (b) The administrative fees associated with the health reimbursement account or  
 24 health flexible spending account shall be an authorized expense to be  
 25 charged to the public employee health insurance trust fund.

26 (3) (a) The public employee health insurance trust fund is established in the  
 27 Personnel Cabinet. The purpose of the public employee health insurance trust

1 fund is to provide funds to pay medical claims and other costs associated with  
2 the administration of the Public Employee Health Insurance Program self-  
3 insured plan under a competitively bid contract as provided by KRS Chapter  
4 45A and reviewed by the Government Contract Review Committee pursuant  
5 to KRS 45A.705. Unless authorized by the General Assembly, the trust fund  
6 shall not utilize funds for any other purpose and the trust fund receipts from  
7 prior plan years shall not be used to pay claims and expenses for current or  
8 subsequent plan years, except as provided by paragraph (b) of this subsection.

9 (b) In the event of a projected deficit in the trust fund balance of a prior plan year,  
10 the secretary of the Finance and Administration Cabinet may declare an  
11 emergency and transfer up to twenty-five percent (25%) of another prior plan  
12 year's balance to that plan year, provided the Governor, all members of the  
13 General Assembly, and Legislative Research Commission are notified at least  
14 thirty (30) days prior to the transfer. The Legislative Research Commission  
15 shall refer the notice to appropriate committees of jurisdiction for their review.

16 (c) The following moneys shall be directly deposited into the trust fund:

- 17 1. Employer and employee premiums collected under the self-insured plan;
- 18 2. Interest and investment returns earned by the self-insured plan;
- 19 3. Rebates and refunds attributed to the self-insured plan; and
- 20 4. All other receipts attributed to the self-insured plan.

21 (d) Any balance remaining in the public employee health insurance trust fund at  
22 the end of a fiscal year shall not lapse. Any balance remaining at the end of a  
23 fiscal year shall be carried forward to the next fiscal year and be used solely  
24 for the purpose established in paragraphs (a) and (b) of this subsection. The  
25 balance of funds in the public employee health insurance trust fund shall be  
26 invested by the Office of Financial Management consistent with the  
27 provisions of KRS Chapter 42, and interest income shall be credited to the

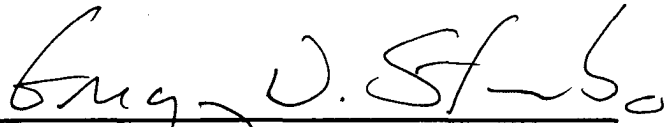
1 trust fund. Any balance for a specific plan year and any subsequent interest  
2 income for that specific plan year shall be accounted for separately.

3 (e) The Auditor of Public Accounts shall be responsible for a financial audit of  
4 the books and records of the trust fund. The audit shall be conducted in  
5 accordance with generally accepted accounting principles and shall be  
6 completed within ninety (90) days of the close of the fiscal year. All audit  
7 reports shall be filed with the Governor, the President of the Senate, the  
8 Speaker of the House of Representatives, and the secretary of the Personnel  
9 Cabinet.


10 (f) The secretary of the Personnel Cabinet shall file a quarterly report on the  
11 status of the trust fund with the Governor, the Interim Joint Committee on  
12 Appropriations and Revenue, the Kentucky Group Health Insurance Board,  
13 and the Advisory Committee of State Health Insurance Subscribers. The first  
14 status report shall be submitted no later than July 30, 2006, and subsequent  
15 reports shall be submitted no later than sixty (60) days following the end of  
16 each calendar quarter. The report shall include the following:

- 17 1. The current balance of the trust fund and the amount of the balance  
18 associated with each plan year;
- 19 2. A detailed description of all income to the trust fund since the last  
20 report;
- 21 3. A detailed description of any receipts due to the trust fund;
- 22 4. A total amount of payments made for medical and pharmacy claims  
23 from the trust fund by plan year;
- 24 5. A detailed description of all payments made to the third-party  
25 administrator of the self-insured plan by the trust fund;
- 26 6. Current enrollment data, including monthly enrollment since the last  
27 report, of the Public Employee Health Insurance Program self-insured

- 1 plan;
- 2 7. Any other information the secretary may include;
- 3 8. Any other information requested by the Interim Joint Committee on
- 4 Appropriations and Revenue concerning the operation of the Public
- 5 Employee Health Insurance Program self-funded plan or the trust fund;
- 6 and
- 7 9. In addition to the information required under subparagraphs 1. to 8. of
- 8 this paragraph, the quarterly report filed in July and January shall also
- 9 include the following:
- 10 a. A projection of the medical claims incurred but not yet reported
- 11 that are considered liabilities to the trust fund;
- 12 b. A statement of any other trust fund liabilities;
- 13 c. A detailed calculation outlining proposed premium rates for the
- 14 next plan year, including base claims, trend assumptions,
- 15 administrative fees, and any proposed plan or benefit changes;
- 16 d. A detailed description of the current in-state and out-of-state
- 17 networks provided under the plan, any changes to the networks
- 18 since the last report, and any proposed changes to the in-state or
- 19 out-of-state networks during the next six (6) months; and
- 20 e. Specific data regarding the third-party administrator's performance
- 21 under the contract. The data shall include the following:
- 22 i. Any results or outcomes of disease management and
- 23 wellness programs;
- 24 ii. Results of case management audits and educational and
- 25 communication efforts; and
- 26 iii. Comparison of actual measurable results to contract
- 27 performance guarantees.

  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date 4/10/14